

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WAUSAU UNDERWRITERS INSURANCE
COMPANY and AXIS SPECIALTY INSURANCE
COMPANY,

INDEX NO.: 06 CV 3212 (VM)

Plaintiffs,

**NOTICE OF
CROSS-MOTION**

- against -

QBE INSURANCE COMPANY and SCOTTSDALE
INSURANCE COMPANY,

ECF CASE

Defendants.
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SIRS/MADAMS:

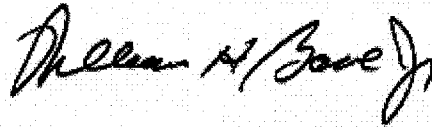
PLEASE TAKE NOTICE that upon the annexed affirmation of WILLIAM H. BAVE, JR., sworn to on the 9th day of November, 2006, the exhibits annexed thereto, Defendant's Local Civil Rule § 56.1 Statement, the accompanying Memorandum of Law and the pleadings and proceedings heretofore had herein, the undersigned will move this Court on a date and at a time to be determined by the Court, before the Honorable Victor Marrero at the United States Courthouse located at 500 Pearl Street, Courtroom 20B, New York, New York 10007, for an Order, pursuant to Fed. R. Civ. P. 56, granting Defendant summary judgment and denying Plaintiff's motion seeking a declaration the Defendant, ***QBE INSURANCE COMPANY*** provide a defense to Barney Skanska Construction Co. and New York Economic Development Corp. in the underlying action of ***John Moore v. New York City Economic Development Corp., New York City Department of Transportation, Barney Skanska Construction Co., and Kel-Tech Construction, Inc.***, and a third-party action captioned ***New York City Economic Development Corp., New York City Department of Transportation, and Barney Skanska Construction Co. v.***

Arena Construction Co., Inc., pending in New York County State Supreme Court, Richmond County.

Dated: White Plains, New York
November 9, 2006

Yours, etc.,

WILSON, BAVE, CONBOY, COZZA &
COUZENS, P.C.



WILLIAM H. BAVE, JR.
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